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HUMAN RIGHTS OF CHILDREN IN INTERNATIONAL PERSPECTIVE: ANALYTICAL STUDY

حقوق انسان الاطفال في منظور دولي: دراسة تحليلية

المدرس الدكتور : علي محمود يحيى / تدريسي في قسم القانون / كلية الامام الاعظم / بغداد

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"I am the child, All the world waits for my coming, All the earth watches with interest to see what I shall become, civilization hangs in the balance, for what I am , the world of tomorrow will be. I am the child, you hold in your hand my destiny, you determine, largely, whether I shall succeed or fail, Give me, I pray you, these things that make for happiness; Train me I beg you, that I may be a blessing to the world."

-Maime Gene Gole

ABSTRACT:-

Children are gift of nature. Children are asset of nation and they shapes the future of nation and roots of future are always found in the past and past is nothing but it is the present which tomorrow will become the past. Every parent attempts to give best of their life to their children though there are tremendous things which make children vulnerable due to their physical and mental immaturity. The presence of children living on the street has elicited emotive public concern, been given considerable media coverage and it is become a matter of priority for national and international child welfare organization. The asset of nation is looking in danger by looking towards child related issues. In this article an attempt is made to present an overview that how vulnerability of children's, violation of

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their human rights, various forms of violation of their rights, international instruments dealing with protection of children's rights and suggestions in this regard.

Problem of Research

The above fact inspired the researcher to select it as research topic. To achieve the aim of research, the researcher has first study human rights of children as following points:-

1} To study human rights of children in global level.

2} To find out differences of infringe of human rights in deference aspect.

3} To understand and analyze socio, economic and political factors which are responsible for effecting on human rights.

4} To study the characteristics features of human rights.

5} To highlight the international conventions of human rights.

Importance of the Paper

Human rights of children can be play a great rule on the human rights of society and by studying their rights and the violence on them. The research will also help to aware the people about their children's human rights also the study can show granting the right to life in a dignified environment and healthy climate, granting the right to health and treatment guaranteed by the State, granting the right to education, providing adequate housing and combating street children, right to an adequate standard of living, right to food, the right to play.

Keywords

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Iraq, India, children, human rights, convention, Article, United Nations, protection.

Scope (Plan) of study

The present study envisages investigation of various aspects concerning children's human rights. The entire study is divided into three topics; as usual first of our research will deal with the introduction, topic first of study is dealing with the meaning of child and their rights; and this topic has been divided in three requirements, topic second is dealing with sexual exploitation of children and international instruments; this topic has been divided into two requirements only while second requirement has been divided into two branches and branch number two is divided to A and B, topic three has studied children trafficking for sexual exploitation; it has been divided into eight requirements, while lastly we will deal with conclusion and suggestions.

Methodology **Adopted**

The present study has adopted analytical study, the researcher will make analytical study of human rights of children particularly in Iraq and India and international level.

INTRODUCTION:-

Children are an important component of the social structure and the potential future careers of the culture. Unfortunately, number of problems of children are exists in all over the world. Children receive rude and unpleasant introduction to life. They not only lack the basic necessities of life, but are also forced to spend a major part of the day working in inhuman and unhealthy conditions for miserable pittance.

Children are the future of any society and in turn they shape the worlds future. That’s why issues of children are an area of concern for all the policy

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makers, social scientists, researchers and judiciary. Almost all the countries whether developed, developing or under developed are facing one or other kind of issue related to childrens.

Children of the nation are a supremely important asset. Their nature and solitude are our responsibility. Children's programme should find a prominent in most national plans for the development of human resources, so that children grow up to become robust citizens, physically fit, mentally alert and morally healthy, endowed with the skill and motivations needed by society.

Nature has given childhood as a gift to human beings. This is a natural process, that those who have a long life span, have long span of childhood, and less life span means less childhood. But, human beings have long life in comparison with other social animal, even though some children have less span of childhood, one shall keep in mind that childhood comes only ones in one's life. Healthy child is the base of the healthy human society, if, he remains hollow then society remains weak, as non can construct multi storied building on weak base. As children are susceptible group and weaker sections of society faces many problems i.e. child labour, sexual exploitation, child trafficking, child sex tourism child marriages, begging adoption related problems, education related problems and so on. So, for the bright future of society, childhood requires proper nutrition, education, training, guidance, protection, love and affection to have peace and health in the society.

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour religion, language or any other status, we are all equally entitled to our human rights

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without discrimination. These rights are all interrelated, interdependent and indivisible.[1]

One cannot lose these rights any more than cease to be a human being; one cannot be denied a right because it is more important or very essential. It has been very rightly quote by Abraham Lincoln, that, "I am in favour of animal rights as well as human rights. That is the way of a whole human being." So the Article 1 of the UDHR, states, 'All human beings are born free and equal in dignity and rights.'[2] Children of any society are also human beings and they are vulnerable in nature so their human rights are promoted and protected at international level through various instruments, to asses them is the purpose of this research article.

i. MEANING OF CHILD AND THEIR RIGHTS

Generally who is not physical y and mentally matured is called child. But it is not legally recognised meaning. The authenticate definition of child is given in Article 1 of the Convention on the Rights of Child of 1990 as "…a child means every human being below the age of 18 unless, under the law applicable to the child, majority is attained earlier."[3]

It is universally recognized that 18 years of the age is the criteria to attain the majority and below 18 years irrespective of gender is treated as child and accordingly laws are incorporated in their respective countries on this definitional background it is better to know the rights of child.

Sir William Blackstone three parental duties to the child: maintenance, protection and education. In the modern language, the child has a right to

[1] http://www.ohchr.org/en/hrc/hrbodies/hrc/pages//hrcindex.aspx (accessed on 01-10-2016)
[2] *Id.*at 3
[3] Article 1 of the *Convention on the Rights* of Child of 1990

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receive these rights from parents.[4] The United Nations General Assembly adopted The Universal Declaration of Human Rights, 1948 in its Article 25(2) recognised the need of motherhood and childhood to "special protection and assistance" and the right of children to social protection.[5]

The United Nations Declaration of the Rights of the Child (1959), which enunciated ten principles for the protection of childrens rights, including the universality of rights, the right to special protection and the right to protection from discrimination among other rights.[6]

Children's rights law is defined as the point where the law intersects with a child life. That includes juvenile delinquency, due process for children involved in the criminal justice system appropriate representation and effective rehabilitative services, care and protection for children in State care, ensuring education for all children regardless of their race, gender, sexual orientation, gender identity, national origin, religion disability, colour, ethnicity or other characteristics and health care and advocacy. All these rights are incorporated in the laws of respective countries by taking into consideration children's physical and mental immaturity. Due to such immaturity of physical and mental conditions whole world is facing problems of child labour, sexual exploitation, child trafficking, child marriages, adoption related problems and efforts to protect their human rights at international level can be traced out as follow.

a) Child Labour and the Law

[4] Blackstones Commentries on the *Laws of England*, Book One, Chapter Sixteen, (1765-69)
[5] Articl 5 of *UDHR,* 1948
[6] Declaration of *the Rights of Child* G.A. RES.1386 (XIV), 14 U.N. GAOR Supp. (No.16) at 19, U.N.Doc. A/4354 (1959)

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The problem of child labour has been one of the major issues to be tackled in any economy as it is a developmental issue considering the ill effect of its prevalence. Almost all the countries whether developed, developing or underdeveloped are facing one or other kind of issue related to child labour. But, the issue of child labour is seen in the worst form is some of the developing and under developed countries. As per an estimate of ILO, there are between 190.7 million child labourers in the world till 2006. Out of these million, half may be found in south and East Asia. By employing children we are denying their right to education, which is crucial for their development.[7]

Children of the nation are a supremely important asset. Their nurture and solitude are responsibility of each prudent adult of each country. Nature has given childhood as a gift to human beings. So, for the bright future of society, childhood requires proper nutrition education, training, guidance, protection love and affection to have peace and wealth in the society.

b) Concept of Child Labour

Child labour occurs when children under the age of fourteen are used to do labour. Children are usually forced to do adult work to help provide for their families. The working conditions are poor and children usually suffers physical, emotional and sexual abuse. They work long hours every day and are unable to attend school, which is their universal human right.

It is very difficult to define child labour, even though attempts are made to define it. Encyclopaedia of social science defined child labour as: “when the business of wage earning or of participation in itself or family support conflicts

[7] ILO Report 2006

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directly or indirectly with the business of growth and education, the result is child labour."[8]

According to International Labour Organization: "child labour includes children prematurely leading adult lives, working low hours for low wages under conditions damaging to their health and to their physical and mental development; sometimes separated from their families, frequently deprived of meaningful educational and training opportunities that could open up for them a better future."[9]

The problem of child labour is not limited to any country but its an international issue. If, we look at a glance the magnitude of the problem at international level, it reveals that 1950in 1950, 27.57% children of the world were working children, which declined in 2000 to 11.32%. in the year 2000, the ILO estimated 211 million working children in the world in the age group of 6 to 14. In 2004, the ILO estimated that there are 219 million economically active children, out of which 166 million are child labour. As per ILO Report 2006, 190.7 million children were engaged in economic activities.[10] The highest number is in agriculture.

The latest ILO global estimates for the year 2012 indicate that both the share and absolute numbers of adolescents aged 15 to 17 years in hazardous work is considerable.

[8] https://en.wikipedia.org/wiki/child-labour (accessed on 02-09-2016)
[9] Malik and Rawal, *Law and Social Transformation in India*:215, 3rd.edn.(Allahabad Law Agency,Haryana,India) 2012
[10] IPEC: *Global Child Labour trends* 2008 to 2012 (Geneva ILO 2013)

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Adolescents aged 15 to 17 years in hazardous work is total about 47.5 million. Adolescents aged 15 to 17 years in hazardous work account for over one quarter (28%) of the overall group of children in child labour.[11]

The ILO estimates indicate that childrens are engaged in various forms of hazardous and non-hazardous work in sectors like construction, brick kilns, fireworks, glass factories, mining and quarry, restaurant, transport, manufacturing, etc. it is believed that child labour is the consequence of social inequality, attitude of the privileged class, lack of employment opportunities, poverty and most important is lack of parental motivation. Children of poor family are a source of their income. To combat with these problem initiatives has been taken worldwide.

c) International Commitments

The international commitments may be divided into two categories, namely, with ILO and United Nations. The International Labour Organization (ILO) was established on April 19, 1919 with the object of the improvement of the conditions of the labourers. Since its constitution, more than 188 Conventions has been adopted with some protocols.[12] International commitments of ILO can be traced out as follow.[13]

Sr. No.	No. of ILO Conventions	Contents of ILO Conventions
1	5 of 1919	Prohibits the employment of person below 14 years of age

[11] World Report on *Child Labour* 2015. http://www.ilo.org/ ipecinfo,/product/download. Do. (accessed on 15-11-2016)
[12] *Supra* note 9 at 217
[13] *Ibid*

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2	6 of 1919	Prohibit the employment during night of person below 18 years of age.
3	15 of 1921	Prohibits a person who is below 18 years of age from being employed on vessel as Toimmer or Stockers.
4	16 of 1921	Compulsory medical examination of child being employed on vessel as Toimmer or Stockers.
5	90 of 1948	Revised the Convention 6 of 1919 and put 12 consecutive hours.
6	123 of 1965	Prohibits the employment in mines of a child below the age of 16 years
7	124 of 1965	Compulsory medical examination of child working in mines
8	138 of 1973	Prohibits the employment of child below the age of 15years but allows after obtaining permission upto the age of 14 years.
9	182 of 1999	Prohibit and eliminate the worst forms of child labour as matter of urgency.

Most of the countries of the world are founder members of ILO and many others also ratified ILO's Conventions and comply them by incorporating various provisions of these Conventions in their respective laws.

a) U.N. Convention on the Rights of the Children (CRC):

The Convention was adopted and opened for signature, ratification and accession by General Assembly Resolution 44/25 of 20th November, 1989 and entered into force from 2nd September, 1990. Article 28 of the Convention provides right of the child to education and further states a view to achieving this right progressively and on the basis of equal opportunity. Whereas, on the other hand, Article 32 provides rights of protection from economic exploitation and from performing any hazardous work or to interfere with Child's education

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, or to be harmful to the Child's health or physical, mental, spiritual moral or social development.[14]

There are two Optional Protocols to the Convention on the Rights of the Child, first protocol prohibits involvement of children in Armed Conflict and second prohibits the sale of children, child prostitution and child pornography. These Optional Protocols were adopted by U.N. General Assembly on 26th March, 2000.[15] Worlds many countries according to their convenience ratified these protocols and conventions of ILO through their law to recognize human rights of children's as universal indivisible and inalienable.

b) Child Labour Combat in Iraq

In 2015, Iraq made a moderate advancement in efforts to eliminate the worst form of child labour. The government adopted a new labour law, which established a new complaint mechanism at the ministry of Labour and Social Affairs to receive and investigate child labour complaints. The government also provided financial support for low income families with the condition that their children remain at school.[16] This is most advanced humanitarian step taken by Iraq to combat the menace of child labour. However, children are engaged in the worst form of child labour, including armed conflict. The government continues to lack programmes that target children in relevant worst forms of child labour, particularly those used by armed groups.

The prevention of child labour is a gigantic task. It has to be seen that the tender age of children is not abused and that children are not forced by economic necessity to enter avocations unsuited to their age or strength and that children should be given opportunities and facilities to develop in a healthy

[14] *Id*.at 218
[15] *Ibid*
[16] http://www.dol.gov./agencies/i lab/resources/reports child_labour/Iraq (accessed on 09-12-2016)

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manner and in conditions of freedom and dignity. Childhood is required to be protected against exploitation and against moral and material abandonment. The only way by which it can be prevented is to provide education to children. It is one of the most effective instruments for the prevention of child labour. Children with no access to basic education have little or no alternative but to enter the labour market where they are often forced to work in hazardous and exploitative conditions. At this juncture, it is appropriate here to quote Noble Prize winner Mr. Gabriel Mistral, " we are guilty of many errors and faults, but our worst crime is abandoning the children, neglecting the foundation of life. Many of the things we need can wait. The child cannot; right now is the time his bones are being formed, his blood is being made and his senses are being developed. To him we cannot answer 'tomorrow'. His name is 'today'."[17]

i. SEXUAL EXPLOITATION OF CHILDREN AND INTERNATIONAL INSTRUMENTS:

Sexual exploitation of the children for any country is worst than any other offence against the children. The sexual exploitation of children is a social disease that denies a child their most basic rights and their human integrity there are many forms of exploitation , the most common of which is child prostitution , but incest abuse, rape, child brides and female genital mutilation are lesser known but equally widespread forms of sexual abuse. Children around the world are sexually abused and exploited in ways that can cause permanent physical and psychological harm.

This grim picture is compounded by the use of children as prostitutes in countries throughout the world. An unknown but, but every large number of children are used for commercial sexual purposes every year, often ending up

[17] *Supra* note 9 at 238

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with their health destroyed, victims of HIV/ AIDS and other sexually transmitted diseases. Younger and younger children are sought with the expectation that clients will not be exposed to HIV. Prostitute's children can be raped, beaten, sodomized, emotionally abused, tortured, and even killed by pimps, brothel owners and customers. Some have been trafficked from one country to another. Both boys and girls are trafficked. Moreover, child prostitutes are frequently treated as criminals by law enforcement and judicial authorities, rather than the victims of sexual exploitation.

According to William and Catherine,[18] an estimated 2 million children the majority of them girls, are sexually exploited in the multi-billion dollar commercial sex industry. At the end of 2000, as many as 325,000 children were at the risk of commercial sexual exploitation in the United States alone. An estimated 16,000 children in Mexico are exploited in prostitution, with tourist destinations being among those areas with highest number. Children as young as 11 can be found in brothels and children between 10 and 12 years of age have been used to make pornographic films. An estimated 30% of trafficking victims from Moldova are adolescent girls trafficked for commercial sexual exploitation.[19]

Child sex workers are not found in any country only but less and more in all the countries of the world. There is annual increase in such child-flesh industry. Day by day percentage of child sex workers is increasing and the age of child sex worker is decreasing every year this is the matter of great concern.

A. **Different Forms of Sexual Exploitation of Children** :

[18] *Id*;at240
[19] *Ibid*

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The term sexual exploitation of children refers to: criminal practices that demean degrade and threaten the physical and psychological integrity of children, in particular, sexual abuse by an adult and remuneration in cash or kind to a child or third person.

Besides the sexual crimes against women, there are following forms of commercial sexual exploitation of children, namely: (a) child prostitution, (b) child pornography in general / on the internet 9C0 trafficking for sexual exploitation (d) incestuous sexual exploitation, (e) child sex tourism, and (f) child marriages.

Child prostitution is very serious problem before the world to curb it not a easy task. Prostitution means "the use of a child in sexual activities for remuneration or any other form of consideration."[20] Due to the involvement of third parties for gaining consideration they misuses tender age of children and lack of their physical and mental immaturity.

There are extensive international human rights laws prohibiting child prostitution. In particular, Article 34 and Article 42 of the Convention on the rights of the child from all forms of Sexual exploitation and sexual abuse. For this process, states parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent …. The exploitative use of children in prostitution or other unlawful sexual practices".[21]

The CRC is further strengthened by the adoption in 2000 of Optional protocol to the convention on the Rights of the Child on the sale of Children, child prostitution and child pornography, whereby state parties shall prohibit

[20] Article 2 of *Optional Protocol*, 2000.
[21] *Supra* note 9 at 242
[22] Article no 9 *Optional protoco*l 2000
[23] ILO Convention no.182 on *the worst forms of child Labour*, Article.6
[24] *Ibid*. Art .10

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child prostitution.[22] Other international standards are in ILO convention on the worst forms of child Labour, which includes prostitution as one of the worst forms of child labour and calls upon states parties to prioritize its elimination.[23] Therefore the Convention requires states parties to condemn Child Prostitution and adopt penal satiations to eliminate it.[24] Apart from these there are other effective steps has been to curb the menace.

B. **Legal Framework Relating to Children's Sexual Exploitation**:

Legal framework on children's sexual exploitation can be divided in two parts as international and regional.

1. **International Instruments**

At the international level a list of Conventions and Convents are available to eliminate the children's sexual abuse. It may be summarized as-

i. International Convention for the suppression of the Traffic in persons and of the Exploitation of the prostitution of offers 1949
ii. The Convention on consent to marriage, minimum Age for marriage and Registration for marriages – Convention enforced with effect from 9th December, 1964.
iii. The Convention on the Elimination of All Forms of Discrimination against women (CEDAW) – Convention enforced with effect from 3rd September, 1981
iv. The United nations Standard Minimum Rules for the Administration of Juvenile Justice (Bailing Rules) 1985, adopted by the United nations General Assembly in November, 1985.
v. The Convention on the Rights of the Child (CRC) 1989 adopted by United Nations on 2nd September, 1990.

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vi. United Nations Guidelines for the prevention of Juvenile Delinquency (The Riyadh Guidelines; 1990, adopted by the General Assembly in December, 1990.complement the previously adopted Beijing Rules.

vii. The Declaration on the Elimination of Violence Against Women, 1993.

viii. The International Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Effect from 19th November,2000.

ix. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol), 2001.

x. The Optional Protocol on the sale of Children, Child Prostitution and Child Pornography, 2000- U.N. adopted it on 18th January, 2002.

2. Regional Instruments- (SAARC Conventions)

At regional levels (South Asia) there are two instruments, dealing with the sexual exploitation. These instruments are i) SAARC Convention on Preventing and Combating Trafficking in Women AND Children for Prostitution, 2002, and ii) SAARC Convention on Regional Arrangements FOR THE Promotion of Child Welfare in South Asia 2002.

Apart from the above there are number of regional instruments are enacted by signatory countries of said Convention within their jurisdictions to prevent and combat the menace in effective and proper manner.

C) Specific International Instruments Protecting Child Rights: at Glance

1. Universal Declaration of Human Rights, 1948:

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Declaration had stipulated under Para 2 of Article 25 that children are entitled to special care and assistance.[25] Article 26 of UDHR provides that everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory.[26] Specialized and proficient training might be made for the most part accessible and advanced education should be similarly available to all based on justify .Education might be coordinated to the full improvement of the human identity and to the reinforcing of regard for human rights and key flexibilities. In addition to other things this article gave center rule to the advancement of identity and poise of person which is so basic for noble survival of people.

The Universal Declaration of Human Rights properly expressed that youth is entitled uncommon care and help. It is further gives that the family, as a central unit of society, should center around children as the new any desire for tomorrow and give all the essential conditions to their development, the absence of which would bring about the staggering of the group. So it is that the Universal Declaration indicates[27] that:

1. Each children might have, with no separation as to race, sex, dialect, religion, national more social root, property or birth the privilege to such measures of insurance as are required by his status as a minor, with respect to his family, society and State.

2. Every child shall be registered immediately after birth and shall have name.

3. Every child has the right to acquire nationality.

[25] *Supra* note 9 at 302
[26] *Id;* at 303
[27] Article 24 of the *UDHR.*

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The previously mentioned standards with different standards of the Universal Declaration concerning the children were fused in the Declaration of the Rights of the Child received by the General Assembly on November 20, 1959. The International Convention on Civil and Political Rights[28] and the International Covenant on Economic, Social and Cultural Rights[29] made arrangement for the care of the youngster. In various other universal archives it was expressed that the tyke ought to experience childhood in a family situation, in a climate of satisfaction, love and comprehension. In spite of the fact that standards were broadcasted for the care and advancement of the youngster, these standards were not official on the States. It was along these lines understood that a Convention is readied which ought to be lawfully official on States.

The Convention on the Rights of the Child was embraced by the General Assembly by accord, on the 30th commemoration of the Declaration on November 20, 1989.[30] It has come into constrain on September 2, 1990. As on June 3, 2005, the Convention hosted 192 States gatherings now it is expanded. The Convention has 54 Articles isolated in three Parts. The Convention under Article 1 expresses that a tyke implies each individual beneath the age of eighteen years unless under the law appropriate to the youngster, dominant part is achieved before.

- **Rights of the Child**

A number of rights have been stipulated in the Convention which are includes:

[28] Articles 23 and 24 of *ICCPR* 1966.
[29] Article 10 of *ICESCR* 1966
[30] *General Assembly Resolution* 44/25, dated November 20, 1989.

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1. Right to life (Article 6 Para1);
2. Right to acquire nationality (Article 7);
3. Right to freedom of expression (Article 13 Para 1);
4. Right to freedom of thought, conscience and religion (Article 14);
5. Right to freedom of Association and to freedom peaceful assembly (Article 15 Para1);
6. Right to education (Article28, Para1);
7. Right to benefit from social security (Article 26);
8. Right to standard of living adequate for the child's physical, mental, spiritual and social development (Article 27);
9. Right to the enjoyment of the highest attainable standard of health and to facilitates for the treatment of illness and rehabilitation of health (Article 24, Para1);
10. Right to the protection of the law against arbitrary or unlawful interference with his or her privacy, family, home or correspondence (Article 16, Para1)

Aside from these rights execution system has been given there yet it doesn't set out any method for singular grievances from children or their agents. In any case, it has just accomplished the Universal sanction. The privileges of tyke are natural and the State which dismisses their rights is to be sure blameworthy of absence of humanism.

2. Optional Protocols to the Convention on the Rights of the Child

Two Optional Protocols to the Convention on the Rights of the Child were adopted on May25, 2000 in New York which are as follows:

With a specific end goal to keep youngsters from being focuses in outfitted clashes an Optional Protocol to the Convention on the Rights of the

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Child was received on May 25, 2000 which were come into constrain on February12, 2002. As on June, 3, 2005, the Optional Protocol hosted 97 States gatherings. It precluded necessary enlistment of children into normal military underneath 18 years old. The Protocol puts forward a commitment upon States to answer to the Committee on the Rights of Child (CRC) on its execution.

The another Optional Protocol on the offer of Children, Child Prostitution and Child Pornography, supplements the arrangements of the Convention on the Rights of the Child by giving point by point enlistments to the criminalization of infringement of the rights with regards to the offer of children, tyke prostitution and tyke erotic entertainment. The Protocol come into compel on January 18, 2002. It hosts 95 States Gatherings in 2005. The Protocol gives a system to the expanded universal co-task in these zones, specifically for the indictment of guilty parties.

iii. CHILDREN TRAFFICKING FOR SEXUAL EXPLOITATION:

Several international agreements advocated against child trafficking. Article 35 of the CRC states that "States parties shall take all appropriate national, bilateral, and multilateral measures to prevent the abduction of, the sale of or traffic in children for purpose of any form". Similarly, Article 6 of CEDAW requires "All states to take appropriate measures to suppress all forms of traffic in women and exploitation of prostitution of women".[31]

The key international legal instrument on trafficking is the Trafficking Protocol. Article 2 states that the aim of Protocol is to eliminate the trafficking of children and women, provides support for victims and promote cooperation among State parties to meet these objectives. Specifically for

[31] *Supra* note 9 at 252

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children. Article 3 of the Trafficking Protocol defines trafficking of children as the "recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation." It follows the CRC definition of a child as any person under 18 years of age. Moreover, Article 9 of the Trafficking Protocol calls upon States parties to develop measures and policies to prevent child trafficking. This supported in Article 6 which provides that States parties pay particular attention to the special needs of children victimized by trafficking, by providing them adequate housing, education and care.

The member States shall take effective measures to ensure that trafficking in any form is an offence under each State's criminal laws, with appropriately grave penalties. Member nations shall also punish persons who finance any place used for the purpose of trafficking.[32] Further it also requires each member State to adopt "legislative and other measures necessary to ensure the implementation of the Convention."[33]

Though such instruments were held at national and international level but its interpretation and applicability to the regional level mostly depend upon the higher judiciary of the concern States. High judiciary plays pivotal role in application and of international instruments by giving them appropriate interpretation and recognition **at** their regional level for protection of human rights on humanitarian basis. USA, Federal Court has awarded over, $1,00,000 to victims of Human Trafficking. As on April 30, 2004, the pending 152 trafficking investigations were more than twice the number open in January 2001.[34]

[32] Article 3 of the SAARC *Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*, 2002.
[33] *Ibid*. Article 10
[34] USA news, 5th may,2004.

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The United Nations said Monday that women and young girls constitute 72 percent of the victims of human trafficking around the world.

This was reported in the UN Office on Drugs and Crime (UNODC), based in Vienna, on human trafficking globally, prepared in the light of data from 142 countries.

The report was announced at a press conference with the participation of the Executive Director of the Office, Yuri Fedotov, and the Austrian Minister for Europe, Integration and External Affairs Karen Kniessel.

According to the report, more than 24,000 people from 97 countries were victims of human trafficking. "Sexual exploitation is at the forefront of trafficking," the report said:

"Women account for 49 percent of trafficking victims, 23 percent of young girls, while adult men account for 21 percent and boys 7 percent," the report said. He explained that "sexual exploitation" is the main cause of this phenomenon by 59 percent, followed by "forced labor" by 34 percent and the rest of the cases for various reasons. The report noted that despite the recent increase in judicial rulings on trafficking cases in Africa and the Middle East, the total number of convictions in those areas remains "very low". The report revealed that the largest proportion of victims of human trafficking are from East Asia and sub-Saharan Africa. The report is based on data from 2016, showing a 40 percent increase in total human trafficking victims compared to 2011.

A. Incestuous Sexual Exploitation

Incest consists of either cohabitation of sexual intercourse between closely related persons. Such as between parent and child or between

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siblings. Incestuous abuse is the worst form of sexual offences. It is the rape committed by the person in whom the victim reposes her faith. It becomes downright monstrous when the victim is a child and the offender is his father, grandfather or brother or any person legally her guardian. Such cases are categorized by themselves and a more stringent punishment has to be awarded in such cases.

This is the big problem, and country is an exception to it, while you are reading newspaper, you will find much news of such kinds which disturb the reader , out of them one is incestuous abuse news. Such news instances are the mere trailers of sexual abuse by closely related person; this problem needs proper solution to maintain the trustworthiness of relationship in civilized society.

B. Child Sex Tourism

The promotion of tourism has also in a way lead to trafficking and exploitation. Children are lured by the tourists and are sexually exploited. Especially boys and teenager girls. This is a burning issue before the whole world. There are such various destinations which are flourished only for child sex tourism. It needs to be curbed by law as well as by civilized society to save the future of children ultimately of the future generations of the world.

C. Child Marriages

Child marriages are the worldwide problem which causes potential dangers to the life and health of female children, who cannot withstand the stress and strains of married life and to avoid early deaths of minor mothers. The main purpose of child marriages prohibition laws is to create a check on population growth as it would result in a lower fertility rate since it reduces the time periods of marriages. To overcome the problem the

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countries which are facing the problem have enacted laws in this regard in their respective legislatures. But at international level there is an international instrument dealing with marriages. Art.1 of the convention on consent to marriage, minimum age for and registration for marriages states that "No marriage shall be legally entered into without the fall and free consent of both parties such consent to be expressed by them in person after due publicity and in the presence of the authority competent to solemnize the marriage and of witnesses, as prescribed by law.[35]

Further, Art.2 provides that "states parties to the present Convention shall take legislative action to satisfy a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reason, in the interest of the intending spouses".[36]

These conventions are ratified by various countries and framed laws in consonance with this international instrument to overcome child marriages. The age of marriage may differ to male and female child according to the socio, political economical and cultural situation of the country but the motto is same to restraint child marriages. Though child marriages preventive laws are there , but it is not achieved its full goal. To curb this problem education and awareness among the people will be the best solution.

a) Iraqi Legal Framework Relating to Child Rights

The armed conflict often results in large-scale displacement of civilians and due to the multiplicity of armed militias and the sectarian, ethnic and sectarian conflict prevailing in the Iraqi street, both socially and politically, leading to arbitrary displacement and killing for sectarian reasons and

[35] *Supra* note 9 at 256
[36] *Ibid.*

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displacement across borders and within the borders of the affected country (Iraq) To leave all their possessions behind them in pursuit of safe haven away from fighting, which leads to dispersion of the family and children miss their right to their places of residence, schools and freedom and all that entered their hearts from the love of the place and brotherhood and many of the internally displaced people lack the means of pussy Living and earning income and many who are suffering initially in the search for a shelter to protect them In these difficult circumstances, children resort to work to meet their living needs especially 2006 and 2014.

Iraqi Labor Code mentioned in Article 86 on those who didn't complete on the employment of juveniles, Prevent (10) they may not be allowed to enter places of work (Article 20 of the Juvenile Welfare Act), dye shoes or sell in public areas or marching on foot, if he finds a beggar, as a small homeless, cigarettes or any other profession subjected to delinquency and was less than (15) years old.

The promulgation of Convention No. 182 of 1999 on the Prohibition of the Harmful Forms of Child Labor and Procedures, Iraq ratified this Convention in the year 2000

Iraq is not lagging behind in protection of rights of children. Constitution of every country is the law of the land and all other laws snatches their power from Constitution only. Iraq's Constitution also incorporated and guaranteed rights of the children in the Constitution under heading 'Rights and Liberties' Chapter One [Rights] out of those some specific are as under: the State shall guarantee the protection of motherhood, childhood and old age, shall care for children and youth, and shall provide them with appropriate

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conditions to develop their talents and abilities.[37] Children have the right to upbringing, care and education from their parents. Parent has the right to respect from their children, especially in times of need, disability and old age.[38] This Article conferred right on both children and parent as vice-versa to take care is an unique provision guaranteed by Constitution itself.

Further it also provided that, economic exploitation of children in all its forms shall be prohibited and the State shall take the necessary measures for their protection.[39] It is also provided that, all forms of violence and abuse in the family, school and society shall be prohibited.[40]

Further it is the duty of the State that State shall guarantee to the individual and the family, especially children and women social and health security, the basic requirements for living a free and decent life and shall secure for the suitable income and appropriate housing.[41]

In Chapter Two titled as 'Liberties' under Article 37 Sub-clause Third states that, forced labour, slavery, slave trade, trafficking in women and children, and sex trade shall be prohibited.[42]

On the basis of above as a law of land various other laws has been incorporated in Iraq dealing with problems and rights of children as follows:

D. Child Marriages:

According to UNICEF, approximately 1 in 5 girls are married before the age of 18 years. Poverty, conflict and strict religious and social traditions are drivers of child marriages in Iraq. The increased financial hardship in Iraq

[37] Article 29 First-B of the Iraqi Constitution.
[38] *Ibid* Second
[39] www.girlsnotbride.org/child marriage/Iraq (accessed on 25-11-2016)
[40] *Ibid* Third
[41] *Id* at Article 30 First
[42] www.Iraqinationality.gov.iq/attach/Iraqi-Constitution pdf. (accessed on 21-12-2016)

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has meant that the number of child brides has increased. According to Iraqi government, in 1997, 15% of marriages involved women under 18. This number jumped to more than 20% in 2012, with almost 5% married by the age 15.[43]

Legal age of marriage is 18 years for both girls and boys, but girl can marry at the age 15 with parental consent. Here it is again true that peoples will power is most important in abidingness of law.

E. Human Trafficking

Iraq is both source and destination country for men women and children subjected to trafficking in persons specifically forced prostitution and forced labour. Girls as 11 years old, are subjected to conditions of human trafficking within country and outside. The government made minimal progress in its anti-human trafficking law in this regard. But during the last one and half year, the Iraqi government initiated both a criminal and human rights investigation into an alleged labour trafficking crime, which resulted in the issuance of two arrest warrants.[44]

F. Rape and Sexual Assault

Rape is private offence in Iraq and criminal charges cannot be brought by the State without the agreement of the victim. In addition, there are maximum penalties that may be imposed and the sentences vary depending on the age of victim. Aggravated factors include cases involving the use of force, incest, a relationship of guardian or trust, transmission of a disease or the loss of the victim's virginity.[45]

[43] *Ibid*

[44] https://en.wikipedia.org./wiki/human-trafficking-in-Iraq (accessed on 21-11-2016)

[45] www.issuelab.org/resources/human-trfficking-in-Iraq-patterns-and-practices-in-forced-labour-and-sexual-exploitation (accessed on 05-12-2016)

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G. Kidnapping:

Abduction of a women is considered a felony punishable upto 15 years in prison, with a possible aggravated sentence of life imprisonment or the death penalty if the p[reparatory attempted to rape a raped victim. The death penalty was reinstated for Article 423 of the Iraqi Penal Code in2004.[46]

H. Prostitution

Prostitution is criminal offence under the IPC. In 1988, the Anti-prostitution law provided for a minimum sentence of three month and a maximum sentence of two for women convicted of position.[47] Begging is also prohibited by law in I ray.[48]

To combat with problems of children and to safeguard their rights apart from Constitution other laws has been there in Iraq. It indicates that protection of Human Rights is not only a sign of democracy and development but also signifies a commitment to international Conventions driven by universal principles. Iraq is no exception.

CONCLUSION:

Children are the future of any society and in turn they shape the words future. That is why issues related to child are of concern for all the policy makers' social scientists, researchers and judiciary all over the word. Children of the nation are a supremely important asset. But when any asset is not are properly, and then will be go damaged and vein. Hence issues like labour, several exploitation of children, scale, pornography, prostitution, child sex

[46] *ibid*
[47] *Ibid*
[48] Art-493 of *Iraqi Penal Code.*

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tourism, human trafficking, begging, illiteracy, adoption related problems, incest etc. are gravies concerns about children's, To overcome this menace worldwide initiatives has been taken through international and national instruments. But, found inadequate. So, for the bright future of society, childhood requires proper nutrition, education, training, guidance, protections, love and affection to have peace and wealth in the society.

We live in very strange times. This is an age in which childhood and its innocence are far more danger than they were ever before. Once open a time young children were cautioned, "Don't take to strangers". Now the threat may come from the most unexpected quarters. Every child is vulnerable to sexual abuse. Parents society must think seriously about this issue. There are number of laws related to children, but there is no single comprehensive law worldwide in this regard. It is the need of hour to take effective and result oriented steps towards providing healthy, humanitarian, and children friendly atmosphere for their overall development all over the world with freedom from all types of fear and exploitations.

The rights of the child are inalienable and state which neglects is indeed guilty of lack of humanism. Presently, millions of human rights are children. They continue to be the most vulnerable sector of the society particularly in situation of conflicts or in other emergencies. A concerted effort is required to be taken among states, civil society and inter-governmental institutions in order to further initiatives that focus attention on children's issues. Let it shall be the prime duty of every adult of the world, to renounce practices derogatory to the dignity and human rights of children and women.

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xxiv. ILO Convention no.182 on the worst forms of child Labour

xxv. 1Declaration of the Rights of Child

xxvi. Convention on the Rights of Child of 1990